

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS (Boston)

No. 1:23-cv-10511-WGY  
Vol. 2, Pages 85-175

UNITED STATES OF AMERICA, et al  
Plaintiffs

vs.

JETBLUE AIRWAYS CORPORATION,  
et al,  
Defendants

\*\*\*\*\*

For Bench Trial Before:  
Judge William G. Young

United States District Court  
District of Massachusetts (Boston)  
One Courthouse Way  
Boston, Massachusetts 02110  
Thursday, November 9, 2023

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United States District Court  
One Courthouse Way, Boston, MA 02110

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I N D E X

WITNESS:                      DIRECT              CROSS              REDIRECT              RECROSS

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1 THE COURT: Court is in session, please be seated.

2 Now, Mr. Mitchell. You may inquire.

3 MR. MITCHELL: Thank you, your Honor.

4 ERIC FRIEDMAN, (Resumed)

5 CROSS-EXAMINATION

6 BY MR. MITCHELL:

7 Q. Hello again, Mr. Friedman.

8 A. Hello.

9 Q. The government asked you a lot of questions on their --  
10 during their examination about your revenue synergy  
11 estimates for the customer experience premium. Do you  
12 recall that?

13 A. Yes.

14 Q. Okay. We'll get into some of the details on that in a  
15 moment. But just so that the record is clear, does the  
16 modeling that you did on the customer experience premium  
17 synergy predict that fares will increase by 30 percent as a  
18 result of this merger?

19 A. No.

20 Q. Okay. And so you talked about it a little bit before,  
21 but just explain what that 30 percent figure is?

22 A. The 30 percent figure is what we observed from some  
23 work that we did that compiled Spirit route exits from 2014  
24 to 2018. We identified 12 route exits that were used, so we  
25 then averaged the average fare increases after the exits,

1 the 12 months after the exits, relative to the 12 months  
2 before those exits, then also evaluated passenger levels as  
3 well.

4 Q. And so when you evaluated these 12 exits, what data did  
5 you look at to make those observations?

6 A. We looked at the DB1B data that's publicly available to  
7 us.

8 Q. Okay. And so you looked at the public data, and then  
9 you observed certain impacts on average fare and passenger  
10 count; correct?

11 A. That's correct.

12 Q. And then what did you do with those -- the impacts you  
13 observed on those 12 exits? You then averaged those  
14 averages?

15 A. Yes. We took those averages and the average fare  
16 increases and the corresponding market size impacts and we  
17 used them as inputs into a QSI model to get to the specific  
18 purpose of identifying the JetBlue-Spirit product  
19 differential premium.

20 Q. Okay. And when did you make that observation, those  
21 observations you've just described? At what point in time  
22 was that done?

23 A. The work was done in 2019.

24 Q. And was that because JetBlue at the time was  
25 considering a potential transaction with Spirit?

1 A. Yes.

2 Q. Okay. Thank you. And then what did you do with that  
3 30 percent figure after you observed it?

4 A. We took the 30 percent figure, we put it into a QSI  
5 model as part of an overarching process to try to hone in on  
6 what the product differential premium would be between  
7 JetBlue's product and Spirit's product.

8 Q. Okay. And that exercise you just described, taking  
9 certain inputs into what you said was a QSI model, was that  
10 also done in 2019?

11 A. Yes.

12 Q. Okay. So we'll come back to that forecasting model  
13 again in a moment, but I first want to ask whether those  
14 observations for the forecasting model you just mentioned,  
15 were those updated in 2022 when you were working on the  
16 customer experience premium synergies work?

17 A. No, they were not.

18 Q. Okay. So turning back to the forecasting model you  
19 just mentioned, you made reference to a QSI model. We've  
20 heard that before, but just could you give a brief summary  
21 of what a QSI model is and what it does?

22 A. A QSI model takes a carrier's frequency on a market, as  
23 well as the average seats on that market, other quality  
24 aspects like product, for example. There are assumptions  
25 built in. And it takes that information and essentially

1 forecasts what share of a market size a carrier would be  
2 quote/unquote entitled to as a result of their capacity and  
3 frequency levels.

4 Q. Okay. And is the input to that QSI, do you guys call  
5 that a market size file?

6 A. That is one of the inputs, the market size file.

7 Q. And are the observations that you discussed with  
8 Mr. Moore, were those inputs into the market size file?

9 A. Those were inputs into the overall model.

10 Q. Okay. So we've talked a little bit about some of the  
11 inputs that you put into the QSI model. Were there certain  
12 factors that you did not include as inputs into that model  
13 at the time?

14 A. Yes. Typically, we would, in any route forecast, model  
15 in what we called the JetBlue Effect; our ability to lower  
16 fare and stimulate demand. We would do that with a high  
17 elasticity, higher than the negative .42 that we've seen in  
18 the past. That was not included in the modeling.

19 Q. Okay. I think you said typically. What's the context  
20 for the "typically"? Is that typically in your  
21 route-planning activities?

22 A. Yes, that's correct.

23 Q. Okay. So why didn't you incorporate the JetBlue Effect  
24 into your modeling of the customer experience premium and  
25 revenue synergy?

1 A. Ultimately, we were trying to get to a conservative  
2 assumption, one that was more conservative than the  
3 41 percent we observed in the real world. To do that, we  
4 took out the JetBlue Effect to kind of create this low-end  
5 baseline conservative scenario.

6 Q. Okay. So that might be a little confusing. Explain  
7 why not including the JetBlue Effect is conservative from a  
8 revenue perspective?

9 A. The beauty about the JetBlue Effect is without  
10 elasticities we're able to stimulate demand at a faster rate  
11 than we decrease the fare in the market. As a result of  
12 that, right, to put that into context, it's roughly, if you  
13 were to decrease the market -- or decrease fares by  
14 10 percent, we would see a corresponding 20, 30, 40 percent  
15 increase in demand stimulation. Because the demand  
16 stimulation is increasing faster than the fare decrease,  
17 when you implement the JetBlue Effect, it actually increases  
18 revenue and makes the QSI model more aggressive than  
19 conservative.

20 We wanted to focus on a very conservative model, a very  
21 base, low-end extreme example to get a more conservative  
22 number.

23 THE COURT: Just so I'm following, as I've  
24 listened to the evidence in this case, most of the witnesses  
25 have talked about the JetBlue Effect as decreasing consumer

1 prices in a market for various reasons. Now, you've pointed  
2 out, because you use that same term, in fact, you can model  
3 based upon experience that what you call the JetBlue Effect  
4 increases the revenue in that market when you enter it for  
5 JetBlue. That's what you're testifying, right?

6 THE WITNESS: Yes. To hopefully make it clear,  
7 we're -- we're stimulating passenger demand more quickly  
8 than we're decreasing the fare. So as we decrease the  
9 fares, we're increasing more volume, higher load factors,  
10 and more revenue on to the aircraft.

11 THE COURT: It also demonstrates that customers  
12 are price-sensitive.

13 THE WITNESS: It does demonstrate that customers  
14 respond to our fare decreases, yes.

15 THE COURT: Go ahead, Mr. Mitchell.

16 Q. And, Mr. Friedman, just to be clear, when you say  
17 stimulate demand, it may be obvious, but can you state, for  
18 the record, what do you mean when you say stimulate demand?

19 A. When I say stimulate demand, I mean that typically  
20 before JetBlue enters a market -- we'll use simple numbers.  
21 Let's say there are 100 customers per day traveling on a  
22 particular route. When we go and lower the fare, the 100  
23 customers turn into 200 customers because our low fares  
24 stimulate the market.

25 Q. Now, does the fact that you did not incorporate the

1 JetBlue Effect into your modeling of the customer experience  
2 premium revenue synergies mean that JetBlue does not expect  
3 the JetBlue Effect to occur after the merger?

4 A. No, absolutely not.

5 Q. Okay. And are you confident that the JetBlue Effect  
6 will remain and will occur after the merger?

7 A. Yes, absolutely.

8 Q. Okay. Thank you. Before we move on, when you were  
9 using the QSI tool you mentioned a moment ago, did you  
10 assume additional entry by ULCCs or other carriers as an  
11 input into the QSI model?

12 A. No, I did not.

13 Q. Okay. And why didn't you do that?

14 A. Again, the purpose of the model was not to be a Magic 8  
15 Ball that would predict all of the competitive environment  
16 changes. It would be -- it was simply to hone in on what  
17 the value difference between the Spirit product and the  
18 JetBlue product would be.

19 Q. The other number you were asked about during the  
20 government's examination was this 24 percent figure. Do you  
21 recall that?

22 A. Yes.

23 Q. And so you talked about this a bit, but just so the  
24 record's clear, does the modeling you did on the customer  
25 experience premium synergy predict or demonstrate that fares

1 will increase by 24 percent after the merger?

2 A. No, that's not how I would characterize it.

3 Q. In your earlier question you characterized that as a  
4 TRASM premium; correct?

5 A. Yes, that's correct.

6 Q. So you walked through most of that with Mr. Moore  
7 earlier, so we won't retread that, but the total revenue  
8 component of that acronym, so total revenue, just what are  
9 the underlying components that make up total revenue?

10 A. Sure. So total revenue refers to all of the revenue  
11 streams. Obviously, we had had ticketed fares. We'd also  
12 had ancillaries on board, think checked baggage, purchasing  
13 a beer on board. It would also include nonflown ancillaries  
14 that aren't actually related to the actual flying on the  
15 aircraft, but might be related to renting a car, and taking  
16 commissions on that, JetBlue vacation packages, on the  
17 hotels, or getting paid by Barclays for our credit card when  
18 we issue points when someone is shopping at a grocery store  
19 with the JetBlue credit card, for example.

20 Q. Okay. Does the DiiO modeling estimate how much of that  
21 24 percent TRASM premium is attributable to an increase in  
22 the average fare?

23 A. It does not.

24 Q. Okay. Does your customer experience premium modeling  
25 suggest that there will be a fare increase for the average



1 customer after the merger?

2 A. For the average customer I think it would be quite the  
3 opposite. I think the reality is fares right now are mostly  
4 led by the big four carriers who control 80 percent of the  
5 marketplace, and I think the JetBlue Effect has demonstrated  
6 that we will go into these markets, reduce fares, and reduce  
7 fares for millions of customers.

8 Q. Okay. And what about for the average Spirit customer?

9 A. So I think for the average Spirit customer there's a  
10 range of outcomes. Right? I think one outcome might be  
11 that a Spirit customer who's typically flown to Myrtle Beach  
12 to play some golf might see the JetBlue product and pay for  
13 the JetBlue product. There might be a Spirit customer that  
14 doesn't necessarily want to pay for the JetBlue product, but  
15 based off the time of year, the day of week, the time of  
16 day, might still be able to get the same Spirit-level price.  
17 And then there might be another Spirit customer that is  
18 looking for an unbundled product, may not necessarily be  
19 able to find one, but will have alternative ULCC options as  
20 a result.

21 Q. Thank you. Now, do you recall whether the customer  
22 experience premium was modeled to begin immediately after  
23 the merger closed?

24 A. No, it was not.

25 Q. Okay. And why not?

1 A. The customer experience premium is tied in large part  
2 to the product on board the aircraft. So the synergy  
3 should -- the synergy timing should really be tied to the  
4 rate at which we're converting aircraft into the JetBlue  
5 product spec.

6 Q. Okay. We gave you a binder with some exhibits, but  
7 before we turn to our binder I want to have you reopen the  
8 binder that Mr. Moore provided you and we'll take a quick  
9 look at Exhibit 403. And I'm going to direct your attention  
10 to the page with Bates number ending 600. Are you there?

11 A. Yep.

12 Q. Okay. Under the heading, "Customer Service Premium,"  
13 I'd like you to take a look at the third bullet there.

14 A. Yes.

15 Q. Okay. This third bullet reads, "Synergy in full force  
16 after all retrofits are complete should ramp accordingly  
17 with retrofits."

18 A. Yes.

19 Q. Is that capturing the sentiment you just described a  
20 moment ago in your testimony?

21 A. Yes. Yes, it is.

22 Q. Thank you, Mr. Friedman. Sticking in that binder I  
23 want you to flip to what is now Exhibit 692 in evidence, but  
24 I think in the binders it's behind the tab that says BTE.

25 (On screen.)

1 Q. And I'll ask you to go to the page ending Bates number  
2 830.

3 A. Okay.

4 Q. Okay. Do you see there's a heading there that says,  
5 "Increased Relevance"?

6 A. Yes.

7 Q. And you discussed this section with Mr. Moore. Do you  
8 recall that?

9 A. Yes.

10 Q. Okay. Now, you gave some context to the Court on what  
11 you -- the way you think about this phrase "creating pricing  
12 power" here, but just so we're clear, can you explain to us  
13 how increasing JetBlue's relevance, how you think about  
14 increasing JetBlue's relevance from a revenue-generation  
15 perspective?

16 A. Sure. So from a revenue-generation perspective,  
17 increasing relevance is essentially referring to increasing  
18 the number of routes you fly, increasing the number of  
19 frequencies you fly on those routes, ensuring that you serve  
20 those routes with good patterns of service across the day,  
21 making sure that you're relevant to multiple customer  
22 segments, whether it's a leisure customer, a customer  
23 visiting a friend or a relative, a corporate customer, a  
24 customer that is a loyal frequent traveler. By gaining more  
25 share and expanding the network and becoming more relevant,

1 we're able to tap into those customer segments, drive  
2 incremental traffic and, frankly, high, well-paying  
3 incremental traffic as well.

4 Q. Because some of those customer segments you just  
5 mentioned may typically pay a higher average fare than other  
6 segments?

7 A. That's correct.

8 Q. And by being more relevant at an airport or in a city,  
9 it allows you to appeal to a wider section of those  
10 segments?

11 A. That's correct.

12 Q. Okay. The other thing you discussed with Mr. Moore  
13 were the airlines that you sort of studied in order to do  
14 your work on this synergy. Do you recall that?

15 A. Yes.

16 Q. And among the airlines you looked at were the legacy  
17 carriers; right?

18 A. Yes.

19 Q. And just for some context, after the merger is  
20 completed, the combined network plan, is Fort Lauderdale the  
21 largest growth city in the combined network plan in terms of  
22 daily departures?

23 A. Yes. It will have about 250 daily departures.

24 Q. So let's put that 250 daily departure numbers in  
25 context. Approximately how many daily departures does

1 American have at its hub in Miami?

2 A. I'd roughly estimate about 350.

3 Q. And do you know how, approximately, how many departures  
4 American has at its hub in Dallas?

5 A. It's approaching nearly a thousand.

6 Q. Okay. And how many departures, approximately, does  
7 Delta have at its hub in Atlanta?

8 A. It's above 800 flights a day.

9 Q. Okay. And just to round it out, how many approximate  
10 daily departures does United have at its hub in Newark?

11 A. I think it's about 400, 450 daily departures.

12 Q. Thank you, Mr. Friedman. You can set that aside, and I  
13 think you can set this binder aside.

14 So you discussed with Mr. Moore that your current title  
15 is director of route planning at JetBlue; correct?

16 A. Yes.

17 Q. And is one of the responsibilities of your position to  
18 know who JetBlue competes with?

19 A. Yes.

20 Q. Okay. So who are JetBlue's competitors?

21 A. We compete with all competitors. We have American,  
22 United, Delta, Southwest, they control 80 percent of the  
23 market. There's also LCCs in the marketplace in the form of  
24 Alaska, ourselves are sometimes considered an LCC, and also  
25 ULCCs, Spirit and Frontier.

1 Q. Were you done?

2 A. I was going to finish and say that mainly the big four  
3 control 80 percent of the marketplace.

4 Q. Okay. And Spirit is one of JetBlue's competitors;  
5 correct?

6 A. Yes.

7 Q. Is there a specific state in which you've observed  
8 Spirit having a larger presence?

9 A. Yes. They have a larger presence in the state of  
10 Florida.

11 Q. And what have you observed about Spirit's presence in  
12 Florida?

13 A. They have a large presence in the South Florida region  
14 as well as in Orlando.

15 Q. Okay. And when you say South Florida, what do you mean  
16 by that?

17 A. I'm referring to Fort Lauderdale and the Miami region.

18 Q. Okay. And is there data that you could look at that  
19 would show you who the largest competitors are on JetBlue's  
20 routes involving South Florida?

21 A. Yes.

22 Q. Okay. What data set would that be?

23 A. That would be the DB1B data.

24 Q. Just briefly, can you explain to the Court what the  
25 DB1B is and what information is contained within it?

1 A. Sure. The DB1B is data provided by airlines to the  
2 U.S. Government. It's typically a 10 percent sample size of  
3 customers by route, the number of customers, the fares that  
4 they're paying. That is then aggregated by a tool that we  
5 use called DiiO.

6 Q. Okay. In your role as director of route planning are  
7 you familiar with DB1B data?

8 A. Yes.

9 Q. And do you use that data in the ordinary course of your  
10 employment to think about, for example, market shares of  
11 your competitors?

12 A. Yes, absolutely.

13 Q. Okay. Is there also a data source that provides  
14 JetBlue with information on the schedules that its  
15 competitors are flying?

16 A. Yes.

17 Q. And what is that data called?

18 A. It would be the public schedule data that's also  
19 filtered through DiiO, and we pull it from DiiO.

20 Q. You said the public schedule data. So this is schedule  
21 data that any carrier can see?

22 A. Yes.

23 Q. Okay. In your role as director of route planning, are  
24 you personally familiar with the public schedule data?

25 A. Yes.

1 Q. And do you use that data in the ordinary course to look  
2 at competitor market shares on routes that JetBlue flies?

3 A. Yes, absolutely.

4 Q. Okay. So, Mr. Friedman, please take a look at the tab  
5 in your binder labeled Friedman 1006 Summary A, which should  
6 appear on the screen in front of you for identification.

7 (On screen.)

8 Q. Are you there?

9 A. Yes.

10 Q. Okay. So without getting into the substance, first,  
11 can you just explain to the Court what are the data that's  
12 reflected here and for what time period?

13 A. Sure. So this is on all JetBlue routes in the South  
14 Florida region from Q2 of 2022 through Q1 of 2023, the  
15 revenue share, passenger share and seat share of all the  
16 airlines. This is coming from the DB1B and the public  
17 schedule data.

18 Q. Now, have you personally had the opportunity to review  
19 this exhibit to ensure that it accurately reflects the  
20 market shares on JetBlue's routes to and from South Florida  
21 for the time period indicated?

22 A. Yes.

23 Q. Okay.

24 MR. MITCHELL: Your Honor, I move to have Friedman  
25 1006 Summary A admitted into evidence.



1 MR. MOORE: No objection, your Honor.

2 THE COURT: It may be received, Friedman Summary A  
3 admitted, number 693. Very well.

4 (Exhibit 693 received in evidence.)

5 Q. Okay. So, Mr. Friedman, the Court has seen some  
6 similar slides so we don't need to spend too much time on  
7 it, but could you just walk the Court through the various  
8 bar charts here and what they're reflecting?

9 A. Yes. So the bar charts that we see are a revenue share  
10 bar chart, a passenger share bar chart, and a seat share bar  
11 chart.

12 Q. Okay. So, in your view, why is it important to think  
13 about market share using these different metrics?

14 A. There's multiple different ways to look at share.  
15 Revenue share is one, passenger share is important as well,  
16 and the overall capacity or seat share in the market is also  
17 important.

18 Q. And, Mr. Friedman, so stepping back, what's your  
19 takeaway from this data?

20 A. I think in the South Florida region the takeaway for me  
21 is the 800-pound gorilla in the room in the form of American  
22 Airlines. They command 38 percent of the revenue share,  
23 38 percent of the -- excuse me, 29 percent of the passenger  
24 share, and 38 percent of the seat share on  
25 JetBlue-competitive routes.

1 Q. Now, what about beyond American? How do you think  
2 about the competitive environment in South Florida after you  
3 get past American?

4 A. Sure. I think once you get beyond American in South  
5 Florida it becomes fairly fractured and pretty dynamic  
6 between Delta, Spirit, United, Southwest, ULCC Frontier.  
7 Most of them, from Delta to Southwest, all have relatively  
8 similar levels of competition, followed by the ULCC  
9 Frontier. So highly fractured, highly dynamic.

10 Q. Is Spirit your primary competitor in South Florida?

11 A. I don't like using the word "primary competitor," but  
12 the largest competitor is American Airlines. That said, we  
13 need to compete with all of these competitors, including  
14 Spirit.

15 Q. Okay. So my next question was going to be, well, how  
16 do you think about competition with Spirit in South Florida?

17 A. I think we think about competition with Spirit just as  
18 any other airline in the south or across the country.

19 They're there. We need to keep a watchful eye on them from  
20 a comprehensive standpoint. But you'll see that we need to  
21 keep a watchful eye on American, Delta, Southwest, United.  
22 We need to keep an eye on the competitive environment for  
23 all of them.

24 Q. Okay. So, Mr. Friedman, the Court has seen a number of  
25 documents that the government's presented where JetBlue is

1 paying close attention to Spirit, particularly in Fort  
2 Lauderdale. So what about those documents?

3 A. I know that we've done in-depth studies on Spirit out  
4 of Fort Lauderdale. We've also done in-depth studies of  
5 American out of Miami. We've also done in-depth studies of  
6 Southwest out of Fort Lauderdale, too, not to mention  
7 multiple studies across different geographies and different  
8 airlines.

9 Q. Now, when your group, the network group does a study,  
10 as you put it, of a competitor, is there a document, a  
11 periodic presentation into which those studies are typically  
12 put?

13 A. Yes. We would call them the quarterly network review.

14 Q. Okay. So let's take a quick look at one of those  
15 quarterly network reviews. In your binder it should be at  
16 Exhibit 275, which contains -- Exhibit 275, which is in  
17 evidence. It's also up on the screen here.

18 (On screen.)

19 Q. Just quickly, Mr. Friedman, do you recognize this  
20 document?

21 A. Yes. This is the quarterly network review from  
22 February 13th of 2018.

23 Q. Okay. And did you personally have a role in helping to  
24 prepare it?

25 A. Yes.

1 Q. Okay. So can we just flip to slide 10, please, which  
2 is on the Bates ending 984. Are you there?

3 A. Yes.

4 Q. Okay. So what does this slide reflect?

5 A. So this is reflecting at the time in 2018 our belief  
6 that Southwest could potentially overtake JetBlue in terms  
7 of seat share in Fort Lauderdale. Potentially by 2019, at  
8 the time.

9 Q. Okay. So in 2018 JetBlue was forecasting and  
10 considering whether Southwest would become the top carrier  
11 in Fort Lauderdale?

12 A. Yes, that's correct.

13 Q. Okay. Is Southwest currently the largest carrier at  
14 Fort Lauderdale by market share?

15 A. Far from.

16 Q. Okay. Thank you. We can put this aside.

17 Aside from South Florida, JetBlue's other focus city in  
18 Florida is Orlando; is that right?

19 A. Yes.

20 Q. Okay. So let's take a look at some recent data for  
21 Orlando. Mr. Friedman, please turn to the tab in your  
22 binder labeled Friedman 1006 Summary B. I'll put this up  
23 for identification. And, again, without getting into the  
24 substance, just explain to the Court what the data is here  
25 and what is the time period?

1 (On screen.)

2 A. Sure. So very similar to the last chart, we're showing  
3 JetBlue-Orlando routes from Q2 2022 through Q1 of 2023,  
4 revenue share, passenger share and seat share for all  
5 airlines on JetBlue routes using the DB1B and public  
6 schedule data.

7 Q. Now, with respect to Friedman 1006 Summary B, did you  
8 have an opportunity to review this exhibit to ensure it  
9 accurately reflects the market share data on JetBlue's  
10 routes to and from Orlando for the time period indicated?

11 A. Yes.

12 MR. MITCHELL: Your Honor, I move to have Friedman  
13 Exhibit 1006 Summary B admitted into evidence.

14 THE COURT: No objection?

15 MR. MOORE: No objection, your Honor.

16 THE COURT: It may be received. It will be  
17 Exhibit 694.

18 (Exhibit 694 received in evidence.)

19 Q. Okay. So, Mr. Friedman, who are JetBlue's largest  
20 competitors in Orlando?

21 A. So it's a bit of a split message here. I think in  
22 terms of revenue share we have Delta at 20 percent. In  
23 terms of seat share we have Spirit at 18 percent. But as  
24 you can see, the bars across all the airlines are relatively  
25 equal in size, similar to South Florida once you get beyond

1 American. It's highly fractured, highly dynamic.

2 Q. Is Spirit your primary competitor in Orlando?

3 A. Again, I -- I don't like to use the word "primary  
4 competitor" because, as you can see from this, we need to  
5 compete with all of these carriers. Depending on which  
6 metric you use, Delta or Spirit would be the largest. But  
7 we have to compete against everyone here.

8 Q. Okay. Thank you, Mr. Friedman. We can put this  
9 exhibit to the side.

10 What is your takeaway from this data about JetBlue's  
11 competition with Spirit in Florida?

12 A. I think the takeaway is despite the fact that they're  
13 largest in Florida, Spirit is a competitor, but the main  
14 competitors are the legacy carriers and Southwest, the big  
15 four.

16 Q. Okay. Thank you. So let's take a step back and talk a  
17 minute about how competition works for airline networks.  
18 Okay?

19 A. Sure.

20 Q. At what geographic level or levels does JetBlue compete  
21 with other airlines when making network planning decisions?

22 A. I think of it across a few different levels. I think  
23 the first level would be the route level, the O&D level,  
24 flying from one origin to another origin. Or, sorry,  
25 another destination. The second level would potentially be

1 the focus city level or the metro area level. And I think  
2 the third level would be the national level.

3 Q. Okay. So let's take those one at a time. What aspects  
4 of competition, network competition have you observed at the  
5 route level?

6 A. At the route level, all right, it's things you might  
7 think about, such as which airline is flying from what  
8 origin to what destination, how many times a day are they  
9 flying, what times of day are they flying, which aircraft  
10 are they flying, do they have a good pattern of service  
11 throughout the day, or multiple different variables at the  
12 route level.

13 Q. Now, moving up a level, in your experience in what  
14 aspects of the competition -- did competition play out at  
15 the focus city or metro level?

16 A. At the focus-city level it becomes a little bit more  
17 strategic. It's essentially about creating a -- an  
18 ecosystem, if you will, where you're focused on building  
19 relevance to the customers in that geography as a whole.  
20 How can I be most relevant to those customers. How can I  
21 fly the most relevant routes, fly those routes correctly, at  
22 the right times of day, at the right frequency levels. How  
23 can I be relevant to all the customers' travel needs,  
24 whether they're going on vacation, traveling for business,  
25 or going to a wedding or a funeral.

1 Q. Okay. And what are the benefits of building relevance  
2 in a focus city or metro area?

3 A. It's a little bit of a win-win phenomenon for the  
4 customers, obviously. They have a company that they can be  
5 loyal to as we help them for all their travel needs. For  
6 the company, for the airline, it helps with what we call  
7 point-of-sale strength.

8 Q. Okay. That's what I was going to ask. How does  
9 relevance manifest itself from a point-of-sale perspective?

10 A. The more relevant you are, the stronger you are in  
11 selling your product within your geography. So the point of  
12 sale in a geography where you have more presence and more  
13 relevance will typically be stronger as a result.

14 Q. Okay. And is there public data available to you that  
15 would demonstrate that phenomenon you just mentioned?

16 A. Yes. It would be the same DB1B data we were discussing  
17 before.

18 Q. Okay. And you said earlier that you and your team use  
19 that data in the ordinary course of business. Do you use  
20 that data to look at point of origin for passengers on a  
21 route, on routes that JetBlue flies?

22 A. Yes.

23 Q. So, Mr. Friedman, I'd like you to look in your binder  
24 at the tab labeled 1006 Summary D. We'll put that up on the  
25 screen for identification as well.



1 (On screen.)

2 Q. Mr. Friedman, before we get into the substance, can you  
3 please explain the data that's reflected here and the time  
4 period?

5 A. Sure. So the data reflected here is DB1B data from Q2  
6 of 2022 through Q1 of 2023 for select Boston routes showing  
7 the point of origins.

8 Q. Thank you. Have you had the opportunity to personally  
9 review this exhibit to ensure that it accurately reflects  
10 the data on the market share and point-of-origin shares for  
11 the JetBlue routes that have been selected here?

12 A. Yes.

13 MR. MITCHELL: Your Honor, I move to have Friedman  
14 1006 Summary D admitted into evidence.

15 THE COURT: No objection?

16 MR. MOORE: No objection.

17 THE COURT: Summary D is admitted, Exhibit 695.

18 (Exhibit 695 received in evidence.)

19 MR. MITCHELL: Thank you, your Honor.

20 Q. So, Mr. Friedman, there's a lot here. Why don't we  
21 focus on one of the examples. You can choose which one you  
22 want to focus on, and just walk through the column headings,  
23 explain what they mean.

24 A. Sure. So I think we can potentially focus on the  
25 Boston-to-Philadelphia chart first. You'll see the

1 marketing airline, that's essentially the airline that's  
2 flying on the route, Boston to Philadelphia. You'll see the  
3 passenger share number, that's the percentage of customers  
4 that are flying on each airline. You'll see the revenue  
5 share number, that's the revenue associated with each  
6 airline on that route. And then you'll see the percent  
7 customers originating in Boston and percent customers  
8 originating in Philadelphia for this specific route, Boston  
9 to Philadelphia.

10 I think what's most interesting about this data, when  
11 you look at it, is American has a relatively small presence  
12 in Boston, but a very large hub in Philadelphia. And you'll  
13 see that it carries, 60 percent of its customers originate  
14 in Philadelphia, and only 40 percent of the customers it's  
15 carrying originate in Boston.

16 When you look at JetBlue in this phenomenon, we have a  
17 relatively large focus city in Boston and have large  
18 relevance and presence here. 61 percent of the customers we  
19 carry on this route are coming from Boston, but only  
20 38 percent are originating in Philadelphia. So you can see  
21 how the point of origination or the point of sale is skewed  
22 to wherever the carrier has greater relevance.

23 Q. And sort of what is your understanding, what's your  
24 takeaway as to why this phenomenon exists?

25 A. The greater relevance you have in a focus city, the

1 more likely a customer will be to choose you and be loyal to  
2 you.

3 Q. And we don't have to go through in quite as much detail  
4 all the others, but is that same phenomenon playing out in  
5 the other routes we've selected here?

6 A. Yes, it absolutely is. You can see something similar  
7 in Boston to Baltimore, for example, with JetBlue carrying  
8 58 percent of its customers from Boston, only 40 from  
9 Baltimore. And then Southwest, who has a hub in Baltimore,  
10 is only carrying 38 percent from Boston, but 62 percent from  
11 Baltimore where its hub is.

12 Q. Okay. And just to, without going through all the  
13 detail, the first route is Boston to Minneapolis; is that  
14 right?

15 A. Yes.

16 Q. And does Delta Airlines have a hub in Minneapolis?

17 A. Yes, it does.

18 Q. Okay. Then Boston to Philadelphia, you mentioned  
19 American has a hub in Philadelphia?

20 A. Yes.

21 Q. Okay. Boston to ORD, that's O'Hare Airport in Chicago?

22 A. Yes.

23 Q. And what are the carriers in that list that have hubs  
24 in Chicago?

25 A. Both American and United.

1 Q. Okay. And in the Minneapolis example, the top left  
2 chart, most of these airline codes we've been over with the  
3 Court. Could you tell the Court, what is the relevance  
4 there to SY?

5 A. SY is a ULCC based in Minneapolis, it's called Sun  
6 Country. As you can see from those numbers as well on the  
7 Boston-to-Minneapolis route it significantly overindexes on  
8 the percent of customers originating in Minneapolis because  
9 that's where it's based and that's where it's known.

10 Q. Thank you, Mr. Friedman. We can put this exhibit to  
11 the side.

12 So let's return briefly to what we were discussing  
13 before relevance, which was the various geographic levels of  
14 competition. You said there are aspects of competition,  
15 network competition that are carried out at the national  
16 level?

17 A. Yes.

18 Q. Okay. And how would you describe network competition  
19 at the national level today?

20 A. Today I would say it's fairly dominated by the legacy  
21 carriers and Southwest, the big four: American, United,  
22 Delta and Southwest. They control roughly 80 percent of the  
23 market share.

24 Q. Okay. And what does JetBlue do with its network to try  
25 to compete at a national level to that?

1 A. So we're always trying to increase our breadth, our  
2 depth. We're always trying to optimize the network and  
3 expand. With that said, it's been relatively challenging to  
4 do and we remain mostly an east coast airline at this point.

5 Q. Okay. You made reference a minute ago to optimizing  
6 your network; is that correct?

7 A. Yes.

8 Q. Okay. How often does JetBlue seek to optimize its  
9 network?

10 A. We're optimizing on a daily basis.

11 Q. Okay. And does the route planning team at JetBlue keep  
12 track of what its competition is doing on their networks?

13 A. Yes, absolutely.

14 Q. Okay. How does your team track what other airlines are  
15 doing on their networks with respect to capacity changes?

16 A. Sure. So on a weekly basis the public airline  
17 schedules are updated. They're updated on Friday nights,  
18 and there's always an unfortunate analyst that needs to work  
19 over the weekend to update the latest capacity plans of  
20 other airlines that show up through the schedules.

21 Q. Okay. Could you take a look in your binder, please, at  
22 the tab marked 289 which contains Exhibit 289 in evidence.

23 (On screen.)

24 Q. And that's going to be on the screen in front of you,  
25 Mr. Friedman. Could you explain -- do you recognize this

1 document?

2 A. Yes.

3 Q. And, just briefly, what is this?

4 A. This is the e-mail that we send out every Tuesday after  
5 the work is complete over the weekend, called the,  
6 "Competitive Schedule Changes." This one is from April 25th  
7 of 2023.

8 Q. Okay. And I think the Court has already seen one of  
9 these, so we'll try to be brief. If you could just explain  
10 to us what's being described in this?

11 A. Sure. So if you could scroll down, I think it would  
12 be -- there we go. This outlines all of the competitive  
13 schedule changes that my team identified as relevant and  
14 within the JetBlue network, as well as JetBlue's capacity  
15 changes, and some capacity changes outside of our network  
16 that are of interest.

17 Q. Thank you, Mr. Friedman. So if, when you said scroll  
18 down, if we're looking at the paper copy, the bullets you  
19 referenced, those appear on the slides ending with the  
20 Bates 002 and 003. Do you see those bullets? They're up on  
21 the screen for you too.

22 A. Yes.

23 Q. Okay. So these bullets here are identifying the  
24 network changes that happened in the week that's reflected  
25 at the top of this report, that is the week in April 2023?

1 A. Yes, that's correct.

2 Q. Okay. So why are there so many network changes  
3 identified here?

4 A. At the end of the day, airlines are optimizing on a  
5 daily basis. Right? We're able to take the planes from one  
6 geography, move them into another geography, we're able to  
7 optimize demand and try to build out our growth strategy.  
8 So in this particular week these are the moves that we saw  
9 from all the various airlines.

10 Q. Okay. Before we move on from this document let's go  
11 back to the first page, which is the Bates ending 001, and  
12 let's take a look at the fifth paragraph on that first page.  
13 We'll highlight that for you on the screen, Mr. Friedman.  
14 Reference is made here to Avelo Airlines. Do you see that?

15 A. Yes.

16 Q. What is Avelo?

17 A. Avelo is a new ULCC. It started off in Burbank,  
18 California, rapidly expanded across the United States to New  
19 Haven, where we compete with them out of Hartford and some  
20 of the New York City area. They've been rapidly growing,  
21 growing in places like Orlando, Fort Lauderdale, Palm Beach,  
22 multiple cities where JetBlue has a presence as well. Here  
23 we were highlighting what came through on this -- in this  
24 particular week, a new growth initiative where they clearly  
25 made Wilmington, Delaware, a growth focus and ended up

1 flying to multiple cities where JetBlue also flies.

2 Q. Is Avelo a competitor to JetBlue?

3 A. Absolutely.

4 Q. Thank you. We can put that aside. We're going to look  
5 at one more example of these. Could you turn in your  
6 binder, Mr. Friedman, to the tab 232 which contains  
7 Exhibit 232, which is in evidence.

8 (On screen.)

9 Q. And, Mr. Friedman, what is this?

10 A. This is another competitive schedule change from  
11 February 27th of 2018.

12 Q. Okay. And on Exhibit 232 I'd like you to look, you see  
13 there's two headings there, "In-Network Changes" and  
14 "Out-of-Network Changes"?

15 A. Yes.

16 Q. Just briefly, why do you organize it that way? What is  
17 the difference between these changes?

18 A. The changes, the in-network changes reflect changes we  
19 observe we consider to be in our network. The  
20 out-of-network changes we consider to be interesting changes  
21 that are happening across the industry but don't necessarily  
22 touch a route that JetBlue flies.

23 Q. Okay. I just want to focus in, briefly, on the bottom  
24 three bullets under the heading, "In-Network Changes."

25 Mr. Friedman, what is the reference to G4? What carrier is



1 G4?

2 A. G4 is Allegiant.

3 Q. Okay. And could you take a look, does JetBlue serve  
4 those routes that are reflected here in these three bullets?

5 A. So JetBlue serves -- at this point in time, served  
6 Austin to Orlando, MCO Airport. Here we're seeing  
7 Allegiant, the ULCC is serving Austin to Sanford, Orlando,  
8 which is a substitute airport in the Orlando region.

9 Because we're flying often to Orlando, because we're also  
10 flying at the time Stewart, which is SWF in the third  
11 bullet, to Orlando, we considered these to be in-network  
12 changes. We also fly JFK-Savannah. Because they were  
13 flying Newark-Savannah, we included that one as well.

14 Q. Okay. You mentioned this other airport, SFB. That's  
15 Sanford Orlando Airport?

16 A. Yes.

17 Q. That's also in the Orlando area?

18 A. Yes.

19 Q. Approximately how far away is that airport from MCO?

20 A. It's about thirty to forty-five minutes away from the  
21 airport, and about thirty to forty-five minutes away from  
22 the theme parks as well.

23 Q. Okay. So even though Allegiant was using different  
24 airports than JetBlue uses for these routes, you still  
25 reflected these changes in the section about in-network

1 changes?

2 A. Yes.

3 MR. MOORE: Objection, your Honor, leading.  
4 There's been a significant amount of leading outside the  
5 scope of direct.

6 THE COURT: There is but, again, you've called  
7 this adverse witness. So unless -- and you have your own  
8 agreement here. I do allow him to lead. I mean, it affects  
9 the weight perhaps that I give to it. Go ahead.

10 MR. MITCHELL: I'll rephrase it.

11 Q. Mr. Friedman, why are these three schedule updates  
12 included under the heading, "In-Network Changes"?

13 A. Again, Sanford Orlando Airport is a perfectly  
14 substitutable airport to get to the Orlando area. And  
15 because we serve Austin to MCO Orlando, and they added to  
16 Austin-Sanford Orlando, we felt that these should be  
17 designated within our network.

18 Q. Thank you, Mr. Friedman. We can put this exhibit  
19 aside.

20 Let's talk briefly about JetBlue's current network. At  
21 a high level how would you describe JetBlue's current  
22 network?

23 A. At a high level I'd characterize it as roughly a  
24 thousand flights a day across six different focuses cities:  
25 Boston, New York, Fort Lauderdale, Orlando, San Juan and LA.

1 In Boston we have a large corporate presence. And across  
2 the network we're focused on leisure and VFR customers as  
3 well.

4 Q. You mentioned a few things in there. What is a focus  
5 city at JetBlue?

6 A. A focus city is probably best compared against a hub.  
7 A focus city is a geography where we are focused on the  
8 customers of that geography, and building relevance for  
9 those customers as a result. Building additional routes,  
10 the right frequencies on those routes, the right patterns of  
11 service on those routes.

12 If you were to compare that to a hub, oftentimes you  
13 have large carriers that built hubs. The purpose of those  
14 hubs is to connect people from outside the hub through the  
15 hub and onward outside the hub. Because of their natural  
16 size, they do provide relevance for the local population as  
17 well, but the main purpose is to build connectivity.

18 Q. Okay. How many focus cities does JetBlue currently  
19 have?

20 A. Six.

21 Q. And why does JetBlue have only six focus cities?

22 A. We've been focused on our six-focus-city strategy for  
23 as long as I've been at JetBlue, which has been about 12  
24 years.

25 Q. Okay. Does JetBlue have a network strategy as it

1 relates to different customer segments?

2 A. Yes. So our strategy on customer segments is really  
3 tied to the focus city strategy. Right? By building out a  
4 focus city, by building out the right routes, serving those  
5 routes correctly, we are able to tap into as many customer  
6 segments as we can. That's how the focus-city strategy  
7 relates to customer segments.

8 Q. Are you aware of the term "seasonality" as it relates  
9 to network planning?

10 A. Yes.

11 Q. What is your understanding of what seasonality is?

12 A. Seasonality refers to demand ebbing and flowing  
13 throughout the year.

14 Q. Okay. Does JetBlue have a strategy related to  
15 seasonality?

16 A. Yes.

17 Q. What is that, broadly speaking?

18 A. Again, it relates to the focus-city strategy. It  
19 relates to going after as many customer segments as  
20 possible, but by appealing to more and more customer  
21 segments, we're able to ebb and flow capacity into the  
22 different demand channels as they ebb and flow throughout  
23 the year.

24 So as corporate demand wanes as you get into summer  
25 vacation, leisure demand increases. We're able to move

1 capacity in and out of those type of markets. And,  
2 similarly, when leisure wanes in the fall and corporate  
3 demand picks back up, we're able to move capacity as a  
4 result.

5 Q. Okay. Are you aware that JetBlue recently announced  
6 that it's planning to reduce certain flying during offpeak  
7 periods in Q4 2023?

8 A. Yes.

9 Q. How does that impact JetBlue's approach to seasonality?

10 A. Overall, in my opinion, it really doesn't. The way  
11 that I view it would be the industry environment. The  
12 economic environment will be what it will be. But so long  
13 as we're focused on as many customer segments as possible,  
14 we'll be able to ebb and flow seasonal capacity as flat as  
15 possible as a result.

16 Q. Okay. And as director of route planning at JetBlue, do  
17 you intend to retain JetBlue's strategy with respect to  
18 seasonality once combined with Spirit?

19 A. Yes, absolutely.

20 Q. Okay. So let's switch gears a little bit and now talk  
21 about JetBlue's network plans for the combined airline.

22 Okay? Have you been involved in planning for what JetBlue  
23 will look like after this transaction closes?

24 A. Yes.

25 Q. Okay. So you spoke with Mr. Moore for a while about

1 the combined network plan but, just briefly, who was on the  
2 team that worked with you to put together the combined  
3 network plan?

4 A. The combined network plan was worked alongside my vice  
5 president, Dave Jehn, vice president of network planning and  
6 airline partnerships, as well as one of my managers, Nick  
7 Han, and his team, which really focus on long-term strategy  
8 and special projects.

9 Q. Okay. And that team ultimately developed a plan that  
10 you referred to internally as the combined network plan?

11 A. That's correct.

12 Q. And just so we're clear, the team you just described,  
13 yourself and those others, were those the individuals  
14 responsible for conceiving of and authoring the combined  
15 network plan?

16 A. Yes.

17 Q. Okay. Once the combined network plan was developed,  
18 was it provided to senior managers for approval?

19 A. Yes.

20 Q. Okay. And who were those folks?

21 A. We got the approval of Dave Clark, Joanna Geraghty and  
22 Robin Hayes.

23 Q. We covered some of this earlier, so let's try to be  
24 brief. Approximately when did you begin work in earnest on  
25 the combined network plan?

1 A. So the real work began in mid-January when I got back  
2 from my paternity leave.

3 Q. And you presented the plan to senior managers  
4 approximately when?

5 A. We presented on May 5th, after several months of work  
6 on it.

7 Q. Okay. During the time that your team was working on  
8 this, was this their main priority?

9 A. Yes. We always have to multitask, but this was the  
10 main priority for the team.

11 Q. Okay. Why did you prepare this combined network plan?

12 A. I think the better question would be why wouldn't we  
13 create the combined network plan. I think, ultimately,  
14 we're about to engage and, hopefully, close the transaction,  
15 and we're going to need a blueprint to build to a  
16 steady-state vision. The combined network plan is an  
17 incredibly exciting opportunity to build that vision, build  
18 that blueprint, so when this deal closes, not to be  
19 presumptuous, we have something to build to. So we're  
20 excited to move forward with it.

21 Q. Okay. Mr. Moore asked you a number of times about a  
22 document referred to as the combined network overview that  
23 you worked on in 2019 and then again in 2022 in connection  
24 with your revenue synergies modeling. Do you recall that?

25 A. Yes.

1 Q. And you -- you're familiar with those documents that he  
2 looked at this morning?

3 A. Yes.

4 Q. Is the combined network overview that you talked about  
5 this morning, is that essentially just an earlier version of  
6 the combined network plan?

7 A. No. I wouldn't characterize it that way.

8 Q. Why not?

9 A. The high-level preliminary network overview that was  
10 done was done in five to seven business days, over a one- to  
11 two-week period. It was done to sanity-check some of the  
12 assumptions that went into the DiiO modeling before the  
13 agreement was signed with Spirit in what I believe was June  
14 or July. The combined network plan was several months of  
15 work with detailed forecasting that ultimately was approved  
16 by our senior leadership team.

17 Q. Okay. How did you go about preparing the combined  
18 network plan?

19 A. So quite the intensive process. The way that we began  
20 was to essentially say let's look at everything and we'll  
21 narrow it down from there. We looked at the top MSAs across  
22 the country. I think we picked the top 50 MSAs across the  
23 country and looked at all routes that met a certain demand  
24 threshold, a certain number of customers per day that were  
25 flying. We then forecasted all those routes with



1 frequencies numbers 1 through 5. I think in the end we  
2 forecasted roughly 6,000 routes with five frequencies each,  
3 for a combination of 30,000 individual route frequency  
4 combinations.

5 The idea then was to take a look at, for all those  
6 route frequency combinations, where was there the most  
7 amount of profitability. And then to take more of an art  
8 and science approach, the science being the math, the art  
9 being could we build focus cities around these profitable  
10 markets and frequencies that we saw. And then once we saw  
11 that there was frequencies converging in certain cities, we  
12 continued to build out those cities from there and  
13 ultimately ended up with the combined network plan.

14 Q. Okay. So there's a lot there. Just you referenced  
15 something called an MSA. What is that?

16 A. That is a metropolitan statistical area, I believe.  
17 It's essentially a metro area.

18 Q. Okay. So just in simple terms, when you said you  
19 looked at the top 50 MSAs, what does that mean?

20 A. We looked at the top 50 largest cities across the  
21 country to potentially build out a focus city within.

22 Q. Okay. And then through conducting the analysis you  
23 just described, you modeled, did you say, 30,000 route and  
24 frequency combinations?

25 A. That's correct, 30,000 route frequency combinations.

1 Q. Okay. And just could you remind us, did you model  
2 30,000 route and frequency combinations in connection with  
3 the combined network overview that you discussed with  
4 Mr. Moore?

5 A. In the high-level network overview that we did for  
6 synergy evaluation I don't believe we came anywhere close.  
7 And the forecasting methodology was much more high level.  
8 Again, we needed to do that in a five to seven business day  
9 time period.

10 Q. Did you conduct this months-long analysis for purposes  
11 of generating a litigation document?

12 A. Absolutely not.

13 Q. Okay. Mr. Moore showed you an excerpt from your  
14 deposition, or one of your depositions. You understood that  
15 there was a lawsuit going on between the Department of  
16 Justice and JetBlue at the time?

17 A. When we started the combined network plan I had been  
18 deposed. In the middle of the combined network plan I  
19 believe the lawsuit occurred. I can't exactly remember  
20 when. And then thereafter when we presented the combined  
21 network plan, after several months of work, I guess the  
22 lawsuit was ongoing at that point.

23 Q. Do you know -- when you said that the Department of  
24 Justice was asking for a combined network plan, you  
25 understood that they were asking for it because of

1 litigation deadlines?

2 A. That was my understanding. And it was also asked for  
3 in my -- or asked about in my deposition.

4 Q. But just to be clear, your testimony, you didn't create  
5 the combined network plan for purposes of litigation?

6 A. No, absolutely not. This plan serves as the blueprint  
7 from which we will build if and when this deal is approved.

8 Q. Okay. Thank you, Mr. Friedman. You've talked about  
9 modeling approximately 30,000 different route and frequency  
10 combinations in the analysis leading up to the combined  
11 network plan; correct?

12 A. Yes.

13 Q. And how did you select which routes and frequencies to  
14 add?

15 A. It -- as I was discussing earlier, it was a little bit  
16 of art and science. You would take a look at the  
17 profitability of all the different route and frequency  
18 combinations. We would see where there was the most  
19 potential profitable growth. We would then evaluate that  
20 city and see if we could build a relevant focus city  
21 footprint in a profitable way where we could be relevant to  
22 multiple different customer segments.

23 Q. Okay. Now, the combined network plan, it assumed a  
24 growth plan for what year, starting in what year?

25 A. The summer of 2027.

1 Q. Okay. And so earlier when you were shown, I think it's  
2 in plaintiff's demonstrative 3, it's Friedman -- sorry, I  
3 said 3. I meant C. Friedman Demonstrative C. You were  
4 shown a series of routes in connection with the redeploy  
5 synergy work. Do you recall that?

6 A. Yes.

7 Q. Do you know which carriers will serve those routes in  
8 2027, as you sit here today?

9 A. No.

10 Q. And when you were doing this work back in 2019, did you  
11 know what carriers were going to be serving those routes  
12 eight years in the future in 2027?

13 A. No.

14 Q. And the same question, when you were doing the work in  
15 2022, did you have any way to understand what carriers would  
16 be serving those routes in 2027?

17 A. No.

18 Q. Okay. What about what the demand environment would be  
19 on those routes in 2027?

20 A. No.

21 Q. Okay. If you had tried guessing at things like what  
22 the demand environment would have been or what carriers  
23 would have served those routes, would that have provided you  
24 any useful data point for purposes of network planning for  
25 the future of JetBlue?

1 A. It would have been a lot of work and a bunch of false  
2 precision.

3 Q. Okay. Was one of the things you did in your analysis  
4 and modeling leading up to the combined network plan, did  
5 you calculate route-level elasticities?

6 A. Yes.

7 Q. Okay. So, Mr. Friedman, if you could turn in your  
8 binder to the tab 153, which contains Exhibit 153 in  
9 evidence.

10 (On screen.)

11 MR. MITCHELL: And, your Honor, we're not going to  
12 do much with this exhibit. I just want to establish a fact  
13 with Mr. Friedman.

14 Q. So, Mr. Friedman, do you recognize Exhibit 153?

15 A. Yes, I do.

16 Q. Okay. And is this -- this is a -- on the screen is  
17 sort of a PDF printout of the first page. But do you  
18 understand that this is a spreadsheet, Exhibit 153 is a  
19 spreadsheet?

20 A. Yes.

21 Q. Okay.

22 MR. MITCHELL: So, Mr. McLeod, I'd just ask if we  
23 could put the native spreadsheet up on the screen for a  
24 moment.

25 (On screen.)

1 Q. Okay. Now, Mr. Friedman, is this the document you used  
2 when calculating elasticities in connection with your work  
3 on the combined network plan?

4 A. Yes. So for all of the 6,000 routes that we  
5 forecasted, we needed as close to a bespoke elasticity  
6 figure as we could get. As a result, this model helped  
7 provide the custom elasticity figures for each forecast.

8 Q. Okay. And you see at the bottom there's three tabs  
9 there. Can we turn to the tab, "Source File (final)"? So,  
10 again, Mr. Friedman, we're in Exhibit 153 here on this tab,  
11 "Source File (final)." Can you explain which column or  
12 columns you used, which elasticity numbers you used in  
13 connection with your work analyzing the combined network  
14 plan?

15 A. We would have used the simple elasticity figures in  
16 green in column Q.

17 Q. Okay. And what about that same column appears --  
18 sorry, the same green appears in column H as well. Do you  
19 see that?

20 A. Yes. So we have the O&D level for column H, and the  
21 metro level in column Q. And we used the simple  
22 elasticities.

23 Q. For those of us not looking at the screen and may not  
24 have the column numbers, did you use, just to simply put it,  
25 did you use the column that's green or the column that's

1 blue as the elasticity calculations in the combined network  
2 plan?

3 A. The column that's green.

4 Q. Thank you. We can put that to the side.

5 MR. MITCHELL: Okay. So, your Honor, the next  
6 document we're going to use with Mr. Friedman contains  
7 competitively sensitive information. And, your Honor, your  
8 binder has the unredacted version with red boxes around the  
9 confidential material. And with your permission, we're  
10 going to put up a redacted version on the screen.

11 THE COURT: That may be done. And what document  
12 shall I go to?

13 MR. MITCHELL: Thank you, your Honor. Could you  
14 please turn to tab 362 in your binder which contains  
15 Exhibit 362 in evidence.

16 (On screen.)

17 Q. Mr. Friedman, you looked at this earlier, but just for  
18 the record what is Exhibit 362?

19 A. This is the 2027 combined network plan that my team put  
20 together.

21 Q. Is this the final version of the deck you put together?

22 A. Yes.

23 Q. And is this the document that was approved by senior  
24 managers at JetBlue?

25 A. Yes.

1 Q. Okay.

2 MR. MITCHELL: Let's go to slide 2.

3 Q. We don't need to go through all of this, you covered  
4 most of it with Mr. Moore, but just high level what is this  
5 slide conveying about JetBlue's plans through the combined  
6 network plan?

7 A. This slide is the executive summary and it's conveying  
8 just how impactful JetBlue and Spirit coming together will  
9 be to unleash a national low-fare competitor. By 2027 we'll  
10 have roughly 665 aircraft, up from 200 today. That's up  
11 from 200 -- or, excuse me -- 200 today in total, up from 280  
12 for JetBlue alone. Those roughly 200 incremental aircraft  
13 are going to generate 425 round trips. There are multiple  
14 strategies that we're going to pursue, multiple new focus  
15 cities, and we're going to see just the JetBlue Effect  
16 permeate through the national landscape, lowering fares for  
17 millions of customers.

18 Q. Okay. We're not going to cover all the strategies  
19 here, but in the middle of the page you see there's  
20 reference to seven growth strategies?

21 A. Yes.

22 Q. So the first one, just explain what that first growth  
23 strategy means to you?

24 A. I think one of the things that we discussed earlier is  
25 that for the past 12 years that I've been here we've been --



1 or been at JetBlue, we've been speaking about the  
2 six-focus-city strategy. I think as part of this  
3 transaction we'll be able to complete -- accelerate that to  
4 completion, complete it, and in some instances, places like  
5 LA, Fort Lauderdale, Orlando, grow it, grow them even more  
6 than we otherwise would have.

7 Q. Okay. Mr. Moore earlier showed you one of the slides  
8 in here and I'll pause to get the slide number. I think  
9 it's 8. Yeah, slide 8, which ends on Bates 888.

10 Why hasn't JetBlue accomplished its network goals in  
11 Boston already?

12 A. I think when it comes to Boston, right now we're  
13 dealing with a post-COVID environment. Corporate demand has  
14 lagged, and as a result corporate frequencies -- or  
15 frequency reductions on corporate routes have been enacted.  
16 I think, over time, as corporate demand comes back, we will  
17 get back to our previous levels and we will complete the  
18 original Boston 200 vision.

19 Q. Okay. And if we flip back to slide 2, we're just going  
20 to talk about a couple more of the growth strategies.

21 MR. MITCHELL: Your Honor, that's on the page  
22 ending 882.

23 THE COURT: I didn't hear, I'm sorry.

24 MR. MITCHELL: That's on the page ending Bates  
25 number 882.

1 THE COURT: Thank you.

2 Q. So, Mr. Friedman, what is the second growth strategy?  
3 What does it mean to drive national route events with a  
4 geographic strategic hub?

5 A. Yes. So as we were putting these growth strategies  
6 together from a bottom-up perspective, what we saw was the  
7 opportunity to add frequency in many cities across the  
8 country. And then there was also the opportunity to connect  
9 these cities with a geographically strategic hub. And what  
10 it would do is it would create a focus city for this  
11 particular large MSA that's growing pretty well.

12 We would create a new focus city there, but in doing  
13 so, and serving those customers, we'd also be able to create  
14 connecting opportunities for millions of customers around  
15 the country, from one part of the country over this  
16 geography to another part of the country, serving the people  
17 of the city but also creating relevance across the country  
18 in other cities as well.

19 Q. Okay. You alluded to it a little bit in your answer  
20 there, but is JetBlue becoming a hub-and-spoke carrier after  
21 the transaction?

22 A. No, absolutely not. I think the forecasts that we have  
23 associated with this combined network plan have us going  
24 from being 85 percent nonstop to 80 percent nonstop in line  
25 with where Spirit is today.

1 Q. Okay. The last one I want to -- the last growth  
2 strategy I'd like to talk about on this page is number 6.  
3 It says, "Leverage Spirit's position in OA hubs." What does  
4 that one mean to you?

5 A. So if we look at Spirit's position in a number of other  
6 airline hubs, they have a relatively large presence. They  
7 serve routes that are good for them. There are a number of  
8 routes that are not served from those hubs that are strong  
9 for JetBlue. I think if we were to combine the strong  
10 JetBlue routes with the Spirit routes that already exist  
11 we'd actually be able to create a meaningful and relevant  
12 network despite the sheer size differences in those cities.

13 Q. And just we'll look through some of the specific cities  
14 in a moment, but just in your view, how will this combined  
15 network that you've planned benefit consumers?

16 A. Look, at the end of the day we're going to be  
17 introducing hundreds of new routes, creating thousands of  
18 connecting opportunities, and across all of that, the  
19 JetBlue Effect will be permeating the country as a result.

20 Q. So now we'll turn through to some of the cities and  
21 metro areas here. So let's start with JetBlue's expansion  
22 on the west coast. So let's turn to slide 9, and that's  
23 Bates number ending 889. And before we walk through this  
24 slide, Mr. Friedman, you'll see in your binder copy there  
25 are red boxes around certain things. So please don't say

1 anything that's in a red box. Okay?

2 A. Sure.

3 Q. So since this is the first one of the slides, these  
4 slides we're looking at, can you just explain to the Court  
5 what the different colors mean on the map there?

6 A. Yes. On the map anything that's in a dark blue line is  
7 a preexisting route and it will remain as such. Anything in  
8 a light blue line is a preexisting route that will receive  
9 added frequency. And anything in green is a route that  
10 currently doesn't exist but will be entered upon as a result  
11 of the transaction.

12 Q. Okay. All right. So with that context, what does  
13 JetBlue hope to accomplish in Los Angeles after the  
14 transaction?

15 A. Yes. So this is our strategy for bringing Los Angeles  
16 to 125 daily departures. The idea here is to become a  
17 carrier of parity with the other big four carriers at LA.  
18 As we were talking about national point-of-sale strength,  
19 the reality is that we have a strong focus city in New York.  
20 We'd like to continue to grow in places like LA, which is  
21 the second largest metropolitan area and very similar to New  
22 York in the transcon opportunity that exists, the leisure  
23 opportunity that exists, the VFR opportunity that exists.  
24 Growing in LA will allow us to increase our national brand  
25 recognition and our national relevance.

1 Q. Okay. Let's take a look at another western city.  
2 Let's look at slide 12, that's Bates ending 892. Okay. And  
3 this slide reflects -- does this slide reflect JetBlue's  
4 growth plans for Las Vegas?

5 A. Yes. This is the Las Vegas 130 plan, officially making  
6 it a focus city. As we've discussed for 12 years at JetBlue  
7 about enhancing our west coast presence, or building a west  
8 coast presence, we'll be able to do that in LA and we'll  
9 also be able to do that in Las Vegas and they'll be able to  
10 mutually complement each other.

11 I think when we also think about Las Vegas, I think  
12 it's quite obvious it's a very popular leisure destination.  
13 It's a very fast-growing place where people are moving to,  
14 and developing into a strong origin point as well. So we'll  
15 be able to tap into, again, our transcon Mint product,  
16 opening up new routes with Mint, tapping into VFR  
17 opportunities, and to Central America, as well as new  
18 leisure opportunities.

19 Q. Okay. Some of those acronyms the Court's heard before,  
20 but just to be clear, what do you mean when you say you're  
21 going to tap into the transcon Mint product?

22 A. So one of the innovative products that JetBlue  
23 unleashed in 2014 was the first domestic lie-flat business  
24 class product. We call that Mint. We are now close to 40  
25 aircraft on that fleet and growing to about 50. Having a

1 strong focus city in Las Vegas will allow us to grow the  
2 Mint product even more for multiple long-haul transcon  
3 destinations from one coast to the other coast using the  
4 Mint lie-flat product.

5 Q. Okay. Thank you, Mr. Friedman. Let's look at one more  
6 west coast city. This is on slide 18, Bates number 898.

7 Okay, Mr. Friedman. So, again, don't say the name of the  
8 city on this one but just describe what JetBlue's growth  
9 plans are in this city after the merger.

10 A. Yes. So here we're looking at another west coast city  
11 that we will essentially be bringing to what we currently  
12 are in the Los Angeles region, really, again, leaning into  
13 that Mint product, the leisure space, and the VFR space.

14 What's interesting about this particular destination is  
15 it is a major hub. It is significantly underserved. And  
16 the prices are high. So the ability for JetBlue to grow  
17 here will certainly enable and unleash the JetBlue Effect as  
18 a result.

19 Q. So is this city an example of serving underserved  
20 geographies, one of the strategies we saw on slide 2?

21 A. Yes.

22 Q. Let's move from the west coast into the middle of the  
23 country. So let's turn to slide 15, please. And that ends  
24 on Bates number 895. Okay. Mr. Moore showed you this slide  
25 so we won't spend too much time on it but, again, just to

1 make clear, the green on the map, that reflects what?

2 A. The green on this map reflects all new routes as a  
3 result of this transaction.

4 Q. Routes that neither JetBlue nor Spirit currently  
5 serves?

6 A. That's correct.

7 Q. Thank you. And, broadly speaking, again, because  
8 Mr. Moore did cover this with you, what are JetBlue's plans  
9 with respect to this, this city?

10 A. So as we grow across the country in cities that we were  
11 talking about before, we'll be adding frequencies to  
12 multiple other cities, increasing our relevance there on a  
13 nonstop basis. By allowing or enabling this focus city to  
14 be created, we'll be able to take our new-found  
15 point-of-sale strength in all of the cities across the  
16 country and not only offer new nonstop options for those  
17 customers, but also open up thousands or hundreds of O&D  
18 combinations on a connecting basis as well. Not only would  
19 we be able to do that on a connecting basis, but for this  
20 city in particular, which is currently dominated by one of  
21 the big four carriers, we would be able to become the  
22 largest carrier as well, and create a focus city for the  
23 local population.

24 Q. Okay. And the heading makes reference to this city  
25 going to approximately 90 departures; is that right?

1 A. That's correct.

2 Q. And just so, briefly, how do you get from 90 departures  
3 in a city to benefiting millions of customers?

4 A. I think, again, as you think about the, all the  
5 different -- all of the different cities that would be  
6 served on a nonstop basis, you combine that with all of the  
7 hundreds of combinations of connecting options that that  
8 would serve, and the thousands of people a day and the  
9 millions of people a day that are interested in flying on  
10 those route pairings, the JetBlue pricing structure would be  
11 put into all of those different nonstop options and  
12 connecting options as a result of this, benefiting millions.

13 Q. Okay. Now, you talked earlier about looking at top  
14 MSAs. But aside from the MSA issue, the population issue,  
15 were there other reasons that you chose this city in  
16 particular?

17 A. Another reason this city would be or was chosen was a  
18 result of the operational benefits that could be had as a  
19 result. So, for example, given its geographic location, if  
20 we were to put spare aircraft in this destination, those  
21 spare aircraft would be in essentially a 3-hour range of any  
22 U.S. city as a result. Having that would potentially allow  
23 us to reoptimize our spare count and potentially fly more  
24 elsewhere.

25 Q. Okay. Are you familiar with the term called "customer



1 reaccommodation?"

2 A. Yes. And that's another operational benefit that would  
3 come from this. The customer reaccom that this city  
4 creates, if you were to think about a weather event in one  
5 part of the country where you cancel flying, you can't  
6 reaccom those customers on a nonstop basis, this provides an  
7 outlet for those customers to be reaccom'd on a connecting  
8 basis which would help stabilize the operation, if needed.

9 Q. So let's take a look at -- another one of the  
10 strategies that we discussed was leveraging Spirit's  
11 positions in OA hubs. Do you recall that?

12 A. Yes.

13 Q. Okay. So let's take a look at slide 31, which is on  
14 the Bates ending 911. So what are JetBlue's plans for  
15 growth in Atlanta after the merger?

16 A. Yes. So, as you can see here, this is the Atlanta 60  
17 that we've referenced in the past. This would make the new  
18 JetBlue the third largest carrier in Atlanta, up from 50  
19 today, with Spirit and JetBlue combined growing to 60. The  
20 idea here would be, you know, fully recognizing that Delta  
21 has roughly 814 daily departures, about the size of JetBlue  
22 on a Saturday, despite that we'd be able to become the third  
23 largest carrier. We'd be able to grow into markets that  
24 have traditionally done well for us, and we'd be able to  
25 create a network that would serve major metropolitan areas

1 within the U.S., major destinations south of Atlanta, and  
2 we'd be able to cover a wider array of customers' needs  
3 while introducing the JetBlue Effect within Atlanta as well.

4 Q. Okay. You made reference to Atlanta's daily departures  
5 from -- sorry, Delta's daily departures from Atlanta being  
6 approximately the size of JetBlue on a Saturday. Is that  
7 what you said?

8 A. Yes, that's correct.

9 Q. So just to make sure I understand, the daily departure  
10 number on this chart, the 814, that's Delta average daily  
11 departures in this single airport. You're saying that's  
12 approximately the size of JetBlue's entire network daily  
13 departures on a Saturday?

14 A. Yes, that's correct.

15 Q. Okay. And after --

16 THE COURT: You did say, though, in answer to this  
17 question, that you would introduce the JetBlue Effect. But  
18 you fly into Atlanta now?

19 THE WITNESS: That's a very good point. We would  
20 expand the JetBlue Effect. Thank you.

21 Q. So we've talked a number of times today about the  
22 concept of relevance. So let's, we'll just look at a few  
23 slides relating to relevance before we move on from this  
24 exhibit. So let's start with slide 6, go backwards in the  
25 deck, that's to the Bates number ending 886. And this slide

1 reflects JetBlue's growth plan in Fort Lauderdale after the  
2 merger; is that correct?

3 A. Yes, that's correct.

4 Q. Okay. And you've made reference to it a couple times,  
5 but just explain, what does that heading mean? What are you  
6 trying to convey through that heading?

7 A. I think the reality is when you look at South Florida,  
8 American has a hub with roughly 350 flights a day. They  
9 serve the Miami area and it's a large connecting hub.  
10 Getting Fort Lauderdale to 250 daily departures will serve  
11 as a competitive alternative to Miami, both for the South  
12 Florida customer set, but also for millions of customers  
13 looking to transit from multiple parts of the United States  
14 into Central America, Caribbean, Latin America, and South  
15 America.

16 Q. And let's take another -- let's take a look at another  
17 growth city in the area. Let's flip one page to slide 7.  
18 That's the slide ending 887. And what are JetBlue's plans  
19 post-merger in Orlando?

20 A. Yes. So we've publicly announced that we'd get Orlando  
21 to 200 daily departures, becoming Orlando's national  
22 airline. Similar to Las Vegas, we know that Orlando is a  
23 very large leisure destination. It's very popular. Serving  
24 this destination from multiple origin points across the  
25 country will increase our relevance in those cities across

1 the country, and our point-of-sale strength. But also  
2 similar to Las Vegas, Orlando is a growing origin point and  
3 we'll be able to get the customers of Orlando into the  
4 Caribbean, as well as to most destinations across the  
5 country.

6 Q. Do the growth plans we've just looked at on slide 6 and  
7 7 here, it is your view that those will increase JetBlue's  
8 relevance at these two airports, one in Fort Lauderdale, one  
9 in Orlando?

10 A. Yes, absolutely.

11 Q. Okay. So these are some examples of JetBlue increasing  
12 its relevance in its existing focus cities. Does the  
13 combined network plan also predict that JetBlue will be able  
14 to expand its relevance in nonfocus cities?

15 A. Yes, absolutely.

16 Q. Okay. So let's take a look at slide 43. So this is  
17 the last slide we're going to look at. This is at the back  
18 of the deck, and it's the Bates number that ends 923. And  
19 again, Mr. Friedman, most of the information, the  
20 information on this table here has a red box in it, in your  
21 binder, so please don't say any of the information in the  
22 box. But what does the heading here mean?

23 A. So as I was talking about before, with all of these  
24 other focus city initiatives that we'll be able to pursue as  
25 a result of the transaction, we'll be adding service across

1 the country to a number of other cities that aren't  
2 necessarily prioritized for growth but it makes sense to fly  
3 them from the focus city origin points. As a result, there  
4 are a host of cities that receive incremental frequency.  
5 And as we're expanding the destination set across dozens of  
6 cities across the country, we're becoming more relevant in  
7 those cities as well, increasing our point of sale, allowing  
8 us to better compete, to better compete against the big four  
9 carriers that are entrenched in those other cities.

10 Q. And is that what this slide means when it says "knock  
11 on" national relevance?

12 A. Yes. By focusing on the other growth strategies, we're  
13 able to knock on relevance as well in these cities as a  
14 result.

15 Q. Thank you, Mr. Friedman. We can put that exhibit to  
16 the side.

17 The growth plans that you've set out, we didn't go  
18 through all these cities in the network plan, could JetBlue  
19 have this sort of growth without the merger?

20 A. Absolutely not. We've been focused on the  
21 six-focus-city strategy for 12 years, as long as I've been  
22 at JetBlue.

23 Q. Okay. Before we move on from the combined network plan  
24 I just want to quickly touch on one more topic. Are you  
25 aware of the term "utilization" in the airline industry?

1 A. Yes.

2 Q. What does that mean in the context of network planning?

3 A. Utilization is usually referred to as how, how many  
4 block hours per day or how many hours per day we're flying  
5 an aircraft.

6 Q. Okay. And did you assume an aircraft utilization level  
7 when you prepared the combined network plan?

8 A. Yes. We assumed the 2019 levels of utilization.

9 Q. And was that -- are you familiar with that, when people  
10 talk about utilization, they can say fleet utilization  
11 versus line utilization?

12 A. Yes. And to be clear, that would have been fleet  
13 utilization.

14 Q. Okay. Why did you assume JetBlue's 2019 fleet  
15 utilization when preparing the combined network plan?

16 A. 2019 was really the last clean year before COVID. And  
17 as a result, in planning a 2027 network plan we felt it  
18 appropriate that we would eventually get back to the 2019  
19 levels that existed before the pandemic.

20 Q. Okay. Do you believe that there are opportunities to  
21 increase aircraft utilization after the merger?

22 A. There absolutely could be, yes.

23 Q. Okay. And in what ways does the combined network plan  
24 provide opportunities for increased utilization after the  
25 merger?

1 A. There are a couple ways. One, there's a lot of growth  
2 from the east coast to the west coast in the combined  
3 network plan, places like LA, places like Las Vegas that we  
4 were able to discuss publicly. As a result, there could be  
5 opportunities to add additional red-eye flying if we're able  
6 to find the opportunity and the aircraft.

7 Q. Okay. And just so everyone understands, how does  
8 red-eye flying relate to aircraft utilization?

9 A. So red-eye flying, the best way that I can describe it  
10 from a route-planning perspective would be that at the end  
11 of the day, the aircraft, sometime around 6:00, 7:00,  
12 8:00 p.m. can either sit and not generate revenue or, if  
13 there's an appropriate route that allows the aircraft to  
14 leave late at night and arrive somewhere early in the  
15 morning, you can fly that aircraft, generate revenue, and  
16 increase utilization.

17 Q. Okay. And we talked about the term "seasonality"  
18 earlier. Does seasonality impact an airline's utilization?

19 A. Yes, it does.

20 Q. How so?

21 A. The less seasonal the network is, the less it dips in  
22 the trough months. The less it dips in the trough months,  
23 the more flying occurs throughout the year.

24 Q. And that's because it's not sitting those planes on the  
25 ground in the off-peak months? What's it doing with those

1 planes?

2 A. As we were talking about before, by diversifying our  
3 customer segments we're able to move capacity in and out of  
4 demand pools throughout the year, allowing those planes to  
5 continuously fly and get through the trough months by  
6 perhaps focusing on corporate travel more and more. So as a  
7 result, by diversifying, we're able to fly more throughout  
8 the year.

9 Q. Thank you, Mr. Friedman. So let's switch topics for a  
10 second. And in your binder, in the front pocket, you'll see  
11 two demonstratives. Okay? And I don't want this to be  
12 overly confusing, but it might be.

13 MR. MITCHELL: So, your Honor, you should take  
14 both of those out.

15 Q. Mr. Friedman, take both of those out. The first one  
16 you'll see has already been identified for the Court as  
17 Kirby Demonstrative 2.

18 MR. MITCHELL: That's a chart that looks like  
19 this, your Honor.

20 (Indicating.)

21 Q. Okay? And Kirby Demonstrative 2 reflects an excerpt  
22 from the expert report of one of plaintiff's economist  
23 experts, Dr. Gowrisankaran. That's Exhibit 5 from his  
24 report. And because Kirby Demonstrative 2 is not very  
25 user-friendly, we have created Friedman Demonstrative 1,



1 which is an Excel sheet, and all we've done is we've copied  
2 the 51 routes identified in Dr. Gowrisankaran's Exhibit 5  
3 and copied them into Friedman Demonstrative 1.

4 So, Mr. Friedman, I'm going to ask you to look at your  
5 screen while we talk about Friedman Demonstrative 1.

6 MR. MITCHELL: And, your Honor, we provided you a  
7 paper copy of that demonstrative if you'd like to follow  
8 along.

9 THE COURT: And I appreciate it. Go ahead.

10 Q. Okay. So, Mr. Friedman, the first question I have for  
11 you about these routes is could you please review these and  
12 let us know if you see any routes that JetBlue does not  
13 currently fly?

14 A. Yes.

15 Q. And can I ask you to do a favor, when you identify  
16 those routes, can you also identify the route number so we  
17 can highlight that on the screen?

18 A. Yes. Start with row 30, Cleveland to Miami. Row 32,  
19 Aruba to Miami. Row 34 and 35, Cartegena to Miami and  
20 Philadelphia to San Juan. Row 46, Austin to Cancun. And  
21 row 47, Miami to St. Maarten.

22 Q. So, by my count, I think that's six routes you've  
23 identified here; is that right?

24 A. Yes, that's correct.

25 Q. Okay. And so those six routes, just for the record,

1 those are the routes at row 30, 32, 34, 35, 46 and 47. Who  
2 at JetBlue made the -- first, before we get to that, does  
3 JetBlue have any plans to fly any of these routes again in  
4 the future?

5 A. No, not at this time.

6 Q. Okay. And who at JetBlue was responsible for deciding  
7 to discontinue service in these six routes?

8 A. The recommendation would have come from my team,  
9 approved by me, and finally approved by Dave Jehn.

10 Q. Did JetBlue's proposed acquisition of Spirit influence  
11 in any way your decision to have JetBlue discontinue service  
12 on any of these six routes?

13 A. Absolutely not.

14 Q. And what about this litigation? Did this lawsuit  
15 influence in any way your decision to discontinue service on  
16 those six routes?

17 A. No, absolutely not.

18 Q. Okay. Now, earlier we talked about -- what is the  
19 state in which you observed Spirit most often?

20 A. That would be Florida.

21 Q. Okay. So let's go back and let's filter the 51 routes  
22 just to look at the routes that touch Florida.

23 MR. MITCHELL: And I apologize, your Honor, we  
24 haven't figured out how to filter the paper copy. So we're  
25 going to do this on the screen. So we're going to look at

1 only the routes that touch Florida.

2 Q. Mr. Friedman, how many --

3 MR. MITCHELL: And you should be able to see that  
4 on your screen, counsel.

5 Q. How many of 51 routes identified in Exhibit 5 of  
6 Dr. Gowrisankaran's report touch Florida?

7 A. I apologize, I might have to count here. I believe  
8 it's --

9 Q. If you want to cheat a little you can look in the  
10 bottom left corner.

11 A. Sorry. There it is, yes, 42 of 51. Forty-two.

12 Q. Let's drill down on these Florida cities a little bit  
13 more. Let's look at only the routes that touch South  
14 Florida. And, Mr. Friedman, how many of these routes touch  
15 South Florida?

16 A. Twenty-five.

17 Q. And JetBlue's focus city in South Florida is Fort  
18 Lauderdale?

19 A. Yes.

20 Q. Okay. The Court has heard a lot about slot controls,  
21 so we don't need to talk about that, but what are some other  
22 type of constraints you can face trying to grow in an  
23 airport other than slot controls?

24 A. Historically, we've come across constraints in the form  
25 of RONs, which is essentially an overnight parking spot.

1     Additionally, in some airports we've run into gate  
2     constraints that have manifested as well.

3     Q.    Okay. With that context in mind, is Fort Lauderdale  
4     Airport, that is the airport with the code FLL, is that a  
5     constrained airport, in your view?

6     A.    I think I would consider Fort Lauderdale constrained in  
7     certain aspects. I think for a carrier like JetBlue that  
8     has a large presence, getting access to more gates in a  
9     contiguous fashion not spread out across all of the airport  
10    can be difficult. That said, for a new carrier to gain  
11    access for an individual gate across any terminal may not be  
12    as challenging.

13           There's also been constraints in the short term driven  
14    by the CBP, the customs and border patrol throughput  
15    limitations. Over the short term they're being managed. In  
16    the medium to long term, with the new facility, it should  
17    improve, especially with the master plan.

18    Q.    Okay. And, just briefly, what is the master plan  
19    you're referencing?

20    A.    So the master plan is a plan that BCAD, the airport  
21    authority in Fort Lauderdale, has our support and has stated  
22    that they want to build out. It includes dozens of gates to  
23    be added to Fort Lauderdale over time. And we've pledged to  
24    support it.

25    Q.    Okay. And what about the other airport in South

1 Florida, Miami International Airport, MIA. In your view is  
2 that a constrained airport?

3 A. No, I wouldn't consider it constrained.

4 Q. Okay. Now, despite the short- to medium-term  
5 challenges you outlined at Fort Lauderdale, have you  
6 observed recent entry by carriers into Fort Lauderdale?

7 A. Yes. Most recently we've observed El Al come into Fort  
8 Lauderdale. We've seen the ULCCs Avelo and Breeze come into  
9 Fort Lauderdale. And we've seen American introduce  
10 DCA-to-Fort Lauderdale service as well.

11 Q. Okay. And the same question with respect to Miami.  
12 Have you seen recent examples of carriers entering that  
13 airport or entering new service?

14 A. Yes, absolutely. Since the pandemic we've seen  
15 Frontier grow in Miami. We've seen a ULCC international  
16 carrier, Norse, grow, from London. We've seen JetBlue grow  
17 into Miami as well. Plus a whole host of international  
18 carriers. I think there's a new airline, Sunrise Airways,  
19 that flies from Haiti to Miami. And Sky Peru, I believe, is  
20 the airline flying Miami to Lima.

21 Q. Thank you. And we'll look at some entry information in  
22 a moment. But the JetBlue's other focus city in Florida is  
23 Orlando; correct?

24 A. Yes.

25 Q. And what is the airport JetBlue uses in Orlando?

1 A. MCO.

2 Q. Is MCO, in your view, a constrained airport?

3 A. No.

4 Q. And why do you say that?

5 A. MCO has four runways. It has a brand-new terminal.  
6 Southwest, just recently as last week, or maybe two weeks  
7 ago at this point, moved a significant amount of  
8 international flying from Fort Lauderdale, out of Fort  
9 Lauderdale into Orlando.

10 Q. Okay. The other Florida airports on  
11 Dr. Gowrisankaran's Exhibit 5 are Fort Myers and Tampa.

12 Okay. So what airport does JetBlue use in Fort Myers?

13 A. We use the RSW airport.

14 Q. In your view, is RSW a constrained airport?

15 A. No.

16 Q. And what airport does JetBlue use in Tampa?

17 A. We use Tampa International.

18 Q. And what's the code for that one?

19 A. TPA.

20 Q. In your view, is TPA a constrained airport?

21 A. No.

22 Q. Mr. Friedman, I want to -- you made reference to some  
23 entry events a minute ago. And earlier in your testimony  
24 you testified about the report that's created on a weekly  
25 basis by your team to track schedule change activity by

1 JetBlue and its competitors. Do you recall talking about  
2 that?

3 A. Yes, the competitive schedule change report.

4 Q. That's exactly right. And those reports are created  
5 and maintained by JetBlue in the ordinary course of  
6 business?

7 A. Yes.

8 Q. So can you please turn in your binder, sir, to tab  
9 1006 Summary E for identification?

10 A. I apologize. What tab?

11 THE COURT: It's the Demonstrative E. It's the  
12 second-to-last tab.

13 MR. MITCHELL: Thank you, your Honor.

14 Q. And, Mr. Friedman, it's also on the screen.

15 Without getting into the substance, I just want to ask  
16 you a few questions. Did you personally review this exhibit  
17 to ensure that it accurately describes information that's  
18 contained within the competitive schedule change reports  
19 that are reflected in this second column here?

20 A. Yes.

21 Q. Okay. And did you personally review each of the  
22 competitive schedule change reports identified in that  
23 second column to ensure that the schedule changes reflected  
24 in the fourth column, that is the column that says "Schedule  
25 Change," that the information described in that column are

1 accurately described?

2 A. Yes.

3 MR. MITCHELL: Your Honor, I move to have Friedman  
4 1006 Summary E admitted into evidence.

5 THE COURT: No objection?

6 MR. MOORE: No objection.

7 THE COURT: E is admitted, Exhibit 696.

8 (Exhibit 696 received in evidence.)

9 MR. MITCHELL: Thank you, your Honor.

10 Q. Mr. Friedman, can you briefly explain to the Court what  
11 this Exhibit 696 is showing, please?

12 A. Yes. This is a select number of competitive schedule  
13 change report activity that was identified between July 5th,  
14 2022 and May 2nd of 2023.

15 Q. Okay. And we won't go through all of these, but  
16 there's a couple codes in here I'm not sure that we've been  
17 through yet. So we talked earlier today, SY, that -- what  
18 airline is that a code for?

19 A. SY is Sun Country.

20 Q. Okay. What route were they entering here?

21 A. Sun Country, the ULCC from before, here entered 3 to 4X  
22 weekly service from Austin to Cancun.

23 Q. That's one of the routes reflected on  
24 Dr. Gowrisankaran's Exhibit 5?

25 A. Yes.



1 Q. And there's another reference to an airline with the  
2 code MX. Do you see that?

3 A. Yes.

4 Q. What airline is that?

5 A. That MX is Breeze, another ULCC.

6 Q. Okay. Thank you, Mr. Friedman. So after you -- after  
7 you reviewed this, these competitive schedule change reports  
8 here, how many entry events did you see for the 51 routes  
9 identified in Dr. Gowrisankaran's Exhibit 5 for the time  
10 period indicated here?

11 A. Yeah. So these are all the entry events associated  
12 with those 51 routes from the July 5th through  
13 May 2nd period. There were 19 entry events across those 51  
14 routes, and those 19 entry events occurred on 16 different  
15 routes.

16 Q. Okay. Thank you, Mr. Friedman. Now, if we wanted to  
17 look broader than just entry events, if we wanted to look at  
18 the full set of competitive scheduling events that happened  
19 on the 51 nonstop routes contained with Dr. Gowrisankaran's  
20 Exhibit 5, in this ten-month period, have you reviewed the  
21 competitive schedule change reports for that full set of  
22 activity?

23 A. Yes, we have.

24 Q. So now I'd like you to turn in your binder to what I  
25 think is the last tab. It's called Friedman 1006 Summary F,

1 like "frank." Let me know when you have that in front of  
2 you, Mr. Friedman.

3 A. Yes.

4 Q. Okay. So this goes on, this is a lengthy document,  
5 this goes on 37 pages; is that right?

6 A. I believe so.

7 Q. Okay. I'm going to ask you the same questions as  
8 before. So have you had an opportunity to review this  
9 exhibit to ensure that it accurately describes information  
10 contained within the competitive schedule change reports  
11 reflected in the second column here?

12 A. Yes.

13 Q. And then did you personally review each of the  
14 competitive schedule change reports reflected in that second  
15 column to ensure that the information contained in the  
16 fourth column, that is the schedule change column, that that  
17 information is accurately described?

18 A. Yes.

19 Q. Thank you.

20 MR. MITCHELL: Your Honor, I move to have Friedman  
21 1006 Summary F admitted into evidence.

22 THE COURT: No objection?

23 MR. MOORE: No objection, your Honor.

24 THE COURT: F is admitted, it will be 697.

25 (Exhibit 697 received in evidence.)

1 MR. MITCHELL: Thank you, your Honor.

2 Q. Now, Mr. Friedman, just very briefly, could you explain  
3 to the Court what information is being shown in Exhibit 697?

4 A. Yes. I believe these are all of the competitive events  
5 documented from July 5th through May 2nd -- sorry, July 5th,  
6 2022 through May 2nd of 2023 that touched one of the 51  
7 routes in the plaintiff's expert's outline.

8 Q. Okay. Now, are all of these competitive events  
9 impactful from a route-planning perspective?

10 A. Some of these are more impactful than others. Some of  
11 these would be exits, reductions in frequency. Some could  
12 be schedule extensions. Others could be added frequency or  
13 entries into new routes.

14 Q. So, Mr. Friedman, with that context, can you please  
15 tell the Court how many competitive schedule events there  
16 have been on these 51 routes in the ten-month time period  
17 reflected here?

18 A. 718.

19 Q. Thank you, Mr. Friedman.

20 MR. MITCHELL: Your Honor, I pass the witness  
21 back.

22 THE COURT: Any further questions?

23 MR. MOORE: Yes, your Honor.

24 THE COURT: Go ahead.

25 MR. MOORE: And, your Honor, given the length of

1 the examination I'm going to do my best to cover as much as  
2 possible during redirect, but I think it's possible we may  
3 need to hold the witness.

4 THE COURT: We may indeed. I'm not crowding you  
5 for time. I have the outside time limits, and to those I'm  
6 going to stick.

7 MR. MITCHELL: Your Honor, may I be heard on that?

8 THE COURT: About what? He just wants to have  
9 redirect.

10 MR. MITCHELL: I understand. All right.

11 REDIRECT EXAMINATION

12 BY MR. MOORE:

13 Q. All right. Mr. Friedman, I have a few questions for  
14 you about some of the demonstratives or 1006 exhibits that  
15 you looked at with your counsel. So to start, why don't we  
16 go to what was marked in your binder as 1006 A. All right.  
17 So this is the exhibit that you created for South Florida;  
18 correct?

19 (On screen.)

20 A. This was the exhibit created for South Florida.

21 Q. And this exhibit is only describing aggregated shares  
22 across routes that JetBlue serves from South Florida;  
23 correct?

24 A. This is all of JetBlue's -- all of JetBlue's routes on  
25 a metro-to-metro basis. So if it's, for example, if it was

1 Fort Lauderdale to New York, Miami to Newark would be  
2 included.

3 Q. But this is not looking at shares across all routes  
4 across -- that are served from the South Florida airports,  
5 correct, by all carriers?

6 A. This is a snapshot of only JetBlue's routes.

7 Q. So fair to say that you thought it would be more  
8 informative to look at the routes that where JetBlue was  
9 providing service; correct?

10 A. This is just simply outlining who our competitors are  
11 today on the routes that we serve.

12 Q. Right. And you chose specifically the routes that  
13 JetBlue serves in order to present this information to the  
14 Court; right?

15 A. That's what was chosen to show who we compete with on  
16 JetBlue routes.

17 Q. That's because the competitive conditions can vary from  
18 route to route; right?

19 A. Competitive conditions do vary on a route-to-route  
20 basis.

21 Q. Mr. Friedman, do you understand that JetBlue has  
22 announced it would sell certain gates to Allegiant at Fort  
23 Lauderdale Airport?

24 A. I'm aware that we'd be divesting five gates to  
25 Allegiant, yes.

1 Q. And that airport, Fort Lauderdale-Hollywood Airport,  
2 that would be included in the South Florida airports that we  
3 see here; correct?

4 A. Yes.

5 Q. Allegiant doesn't appear anywhere in this graphic;  
6 correct?

7 A. It would be in the "other" column.

8 Q. The other column for which there's 0 percent share;  
9 correct?

10 A. Yes.

11 Q. But Allegiant does offer some service from Fort  
12 Lauderdale today; correct?

13 A. Yes, I believe so.

14 Q. So what we can learn from this graphic is that  
15 Allegiant offers no service, effectively, on the routes  
16 where JetBlue offers service out of Fort Lauderdale today;  
17 correct?

18 A. I think there's a lot to learn from this graphic. That  
19 could be one takeaway.

20 Q. So we've been looking at the demonstrative or the  
21 exhibit that you created. I want to look at one other  
22 demonstrative now. And, I apologize, you'll need to flip  
23 back to the binder that plaintiffs gave you earlier today.  
24 And we're going to go to Friedman Demonstrative G. So I  
25 think it should be towards the back of your binder.

1 (On screen.)

2 THE COURT: The very last demonstrative.

3 MR. MOORE: Yes, your Honor. All the way at the  
4 back. It's the quite colorful bar chart.

5 Q. Do you see that, Mr. Friedman?

6 A. Yes.

7 Q. So plaintiffs put together this demonstrative based on  
8 the data that was underlying the exhibit that we were just  
9 looking at, the data you testified about earlier. And I'll  
10 represent to you that we've limited that data to just the  
11 routes in which both JetBlue and Spirit offers nonstop  
12 service. Does that make sense?

13 A. Yes. So this is just the nonstop overlap routes from  
14 South Florida. Is it done on a metro-to-metro basis?

15 Q. So, as you can see at the top, it's airport pair to  
16 airport pair for this particular graphic.

17 A. Okay. So it's inconsistent with the methodology we  
18 did.

19 Q. Understood. So we were using the data, though, and  
20 unfortunately the data has its limitations. The data,  
21 though, we could both put together this graphic. Does that  
22 make sense?

23 THE COURT: It doesn't to me. I just lost you,  
24 that's all.

25 MR. MOORE: No problem, your Honor. I can explore

1 that a little bit more.

2 Q. So, Mr. Friedman, we used that data that backs up the  
3 exhibit we were just looking at, the South Florida exhibit.  
4 Do you recall that?

5 A. Yes. But you aggregated it slightly differently, I  
6 believe.

7 Q. So we're looking at seat shares. You can see that  
8 here, looking at seat shares?

9 A. Okay.

10 Q. And we're looking on an airport-to-airport basis;  
11 right?

12 A. And not on a metro-to-metro basis.

13 Q. So for a couple of metro areas, for example, New York,  
14 New York might include three different airports versus just  
15 a route to one airport; correct?

16 A. Correct.

17 Q. And the airport to airport, that would be one airport  
18 to a different airport, even if there's other airports in  
19 that metro area.

20 A. Okay.

21 Q. So I want to start with the first page of this  
22 demonstrative which is the one for South Florida. So what  
23 we can see here is if we measure by seat share, JetBlue and  
24 Spirit have the first and second highest shares on the  
25 nonstop overlap routes where they compete against each



1 other; correct?

2 A. On overlap routes, Spirit has 33 percent, JetBlue  
3 24 percent, I believe the big four have about 40 percent.

4 Q. So together JetBlue and Spirit have 57 percent?

5 A. Yes, I believe so.

6 Q. Okay. Let's go to the next page. If you can flip to  
7 the next page in your binder. It will flip on the screen as  
8 well. We're going to go to Orlando. So looking at this  
9 graphic, JetBlue and Spirit are, again, the two largest  
10 carriers on the nonstop overlap routes where they compete  
11 against each other in Orlando, correct, when measured by  
12 seats?

13 A. On overlap routes only, yes. JetBlue is the largest,  
14 followed by Spirit, followed by Delta, Frontier, United,  
15 Southwest.

16 Q. And their combined share, as measured here, is  
17 56 percent; correct?

18 A. Yes.

19 Q. All right. So you can --

20 THE COURT: Actually, Mr. Moore, we're going to  
21 stop now, respectfully, because I want to talk about the  
22 schedule. So you may step down, sir.

23 THE WITNESS: Thank you, your Honor.

24 (Whereupon the witness stepped down.)

25 THE COURT: At the end of today's testimony, the

1 government has used up four days, one hour 35 minutes. The  
2 defense has used up three days, one hour,  
3 twenty-five minutes.

4 Looking ahead at the schedule to come, we're not  
5 sitting tomorrow because of the holiday. We're not sitting  
6 Monday. On Tuesday we will stop at 12:30, taking a shorter  
7 recess so as to lose only fifteen minutes. Tuesday I must  
8 hold court -- or I've agreed to hold court at the Boston  
9 University Law School in the afternoon. Some or all of you  
10 are welcome to come if you want. What we do is we hold a  
11 motion session, and then at the end we answer the students'  
12 questions. This is no effort to get you to come, I'm just  
13 telling you what we're doing in the afternoon.

14 But if lawyers are there we don't talk at all  
15 about the cases heard except practice and procedure. But if  
16 lawyers are there, I ask them how proceedings in the motion  
17 session, the way I conduct it, varies from their practices.  
18 And it's instructive to the students because some are  
19 largely state practitioners. Some, like you, are national  
20 practitioners. And I find it instructive for the students.

21 So that's what -- and for the rest of the week  
22 we'll sit all four days, 9:00 to 1:00. So, Mr. Duffy, when  
23 do you think you're going to rest here?

24 MR. DUFFY: Yes, your Honor. So the first thing I  
25 would point out, defendants are putting on much of their

1 case contemporaneously.

2 THE COURT: And I'm very sensitive to that.

3 MR. DUFFY: And so I expect we will rest roughly  
4 the day before we break for Thanksgiving, if we stick to  
5 kind of the current time estimates that we've been looking  
6 at. I will say, we are actually running slightly ahead of  
7 our anticipated schedule.

8 THE COURT: That's what I wanted to hear you say.

9 MR. DUFFY: But we will, I believe, finish the  
10 fact witnesses in our case next week, start with our two  
11 experts, and then there's only a few fact witnesses on  
12 defendants' side who haven't already been called in our  
13 case.

14 The one other thing I did want to ask the Court,  
15 with respect to our experts, if we can recall them after  
16 defendants' experts have been called, in rebuttal, solely to  
17 respond to things their experts have said. That will make  
18 the presentation of our expert testimony a bit more  
19 efficient, I think.

20 THE COURT: My view about recalling rebuttal  
21 witnesses is that it's something that to which, if you can  
22 anticipate that -- if I think you should have anticipated  
23 what they said, you best deal with it on direct. However,  
24 if there is something new beyond what is anticipated in the  
25 development of the evidence, you may call a rebuttal

1 witness. In other words, I think that's the usual rule.

2 MR. DUFFY: Understood.

3 MR. SHORES: May I be heard on this, your Honor?

4 THE COURT: Yes.

5 MR. SHORES: From our perspective, your Honor was  
6 very clear that everything has to be disclosed in the expert  
7 report so there is going to be no surprises here. And, I  
8 mean, in that context it's hard to see why they would need  
9 to be recalling experts back.

10 THE COURT: It is. But I don't give advisory  
11 opinions.

12 MR. SHORES: Okay.

13 THE COURT: One thing that -- and I'm sure you've  
14 anticipated this. In addition to your copious -- I don't  
15 criticize it at all. I'm very appreciative of the  
16 smoothness with which I am receiving a large body of  
17 evidence here. And I've said that before and repeat it.  
18 But I want the actual expert report sitting in front of me  
19 whenever an expert called under Rule 702 testifies.

20 All right. We're about ready to take the recess.  
21 I want to say something about Veteran's Day briefly. Not to  
22 give a speech, but I really do think that tomorrow you ought  
23 to give thought to the men and women who have served and who  
24 are serving. And I mention two points.

25 My first legal job was to be law clerk to Chief

1 Justice Raymond Sanger Wilkins, Chief Justice of the Supreme  
2 Judicial Court of Massachusetts. And when I was younger, of  
3 course, we called this holiday, which is never a Monday  
4 holiday, it's always on the day, we called it Armistice Day  
5 because it was the 11th hour of the 11th month in which the  
6 armistice kicked in. On that day, the judge for whom I  
7 clerked was riding at the head of his artillery battery  
8 toward the front, in France, and next to him was his first  
9 lieutenant. His first lieutenant was Leverett Saltonstall,  
10 a distinguished senator from Massachusetts.

11 A little more than ten years later I was  
12 privileged to become a judicial officer on the Superior  
13 Court in the Commonwealth of Massachusetts, the senior judge  
14 in service. They don't have a senior judge system like the  
15 federal courts do, but the senior judge, the one who was  
16 longest in service, was Justice -- and the state judges are  
17 called justices -- John H. Meagher. Justice Meagher's  
18 father was a color bearer in the 28th Massachusetts. The  
19 28th Massachusetts was part of the Irish Brigade in the  
20 Civil War. He carried a big green flag up the hill toward  
21 Longstreet's men on Marye's Heights at Fredericksburg.

22 Those stories ought remind us that this whole  
23 polity, how we live together as a nation, is really a vast  
24 experiment in human relationships. And President Reagan had  
25 it right: "Freedom is a fragile thing. It is never more

1     than one generation away from extinction. It must be fought  
2     for and defended in every generation for it comes but once  
3     to a people."

4             So give a thought to those men and women today serving  
5     who make it possible for us to sit here and courteously and  
6     quietly and thoroughly be about the important business that  
7     it is our privilege to debate and consider in this  
8     courtroom.

9             Thank you. We'll recess until 9:00 a.m. on Tuesday,  
10    November 14th. Have a good weekend.

11            COUNSEL: Thank you, your Honor.

12            THE CLERK: All rise.

13  
14            (Proceedings adjourned.)  
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C E R T I F I C A T E

I, Cheryl B. Palanchian, Court Reporter  
for the United States District Court for the  
District of Massachusetts, do hereby certify that  
the foregoing pages are a true and accurate  
transcription of my shorthand notes taken in the  
aforementioned matter to the best of my skill and  
ability.

/s/ Cheryl B. Palanchian 11/9/2023  
CHERYL B. PALANCHIAN

Registered Merit Reporter  
Certified Realtime Reporter